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### CHAPTER He-M 1300 SPECIALIZED SERVICES

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PART He-M 1302 NURSING FACILITY PREADMISSION SCREENING AND ANNUAL  
RESIDENT REVIEW (PASARR)

Statutory Authority: New Hampshire RSA 135-C:61, XII; RSA 171-A:3

He-M 1302.01 Purpose. The purpose of these rules is to determine the appropriateness of admitting individuals with mental illness or mental retardation to Medicaid certified long-term care facilities. Each applicant for admission is screened to confirm mental illness or mental retardation, determine if the individual meets the nursing facility level of care, and, if approved for admission, determine whether the individual requires services in addition to those typically provided by nursing facilities.

He-M 1302.02 Definitions. The words and phrases used in these rules shall mean the following:

(a) “Applicant” means an individual who applies for residence in a Medicaid certified nursing facility.

(b) “Department” means the New Hampshire department of health and human services.

(c) “Director” means the director of the division of developmental services.

(d) “Divisions” mean the division of developmental services and the division of behavioral health of the New Hampshire department of health and human services.

(e) “Informed decision” means a choice for services made voluntarily by an individual or applicant or, where appropriate, such person’s legal guardian or legal representative, after all relevant information necessary to make the choice has been provided, when:

- (1) The person understands that he or she is free to choose or refuse any available alternative;
- (2) The person clearly indicates or expresses his or her choice; and
- (3) The choice is free from all coercion.

(f) “Institution for mental diseases” (IMD) means an institution that is primarily engaged in providing diagnosis, treatment, or care of persons with mental illness, including medical care, nursing care, and related services.

(g) “Intermediate care facility for the mentally retarded” (ICF/MR) means a facility licensed and certified to provide specialized services for individuals with MR or related conditions which provides health or rehabilitative services on a long-term basis.

(h) “Mental illness” (MI) means a condition that is:

- (1) Classified in the latest edition of the Diagnostic and Statistical Manual of Mental Disorders as:
  - a. Schizophrenia or other psychotic disorder;

- b. Mood disorder;
- c. Borderline personality disorder;
- d. Post traumatic stress disorder;
- e. Obsessive compulsive disorder;
- f. Panic disorder; or
- g. Other mental disorder which may lead to a chronic disability;

(2) Has resulted in functional limitations in major life activities within the past 3 to 6 months, such as difficulty in:

- a. Interacting appropriately and communicating effectively;
- b. Sustaining focused attention for a long enough period to permit the completion of tasks; or
- c. Adapting to typical changes related to work, school, family, or social interactions; and

(3) Includes a treatment history that indicates the individual has experienced at least one of the following within the past 2 years:

- a. Psychiatric treatment more intensive than outpatient care service such as partial or inpatient hospitalization; or
- b. An episode of significant disruption to the individual's normal living situation due to the individual's mental disorder requiring social service, housing, or law enforcement interventions to continue residence at home or in a residential treatment environment.

(i) "Mental retardation and related conditions" (MR) means any condition that:

- (1) Is predominantly characterized by substantial deficits in intellectual functioning manifested by significant impairments in adaptive behavior;
- (2) Originates before such individual attains age 22;
- (3) Has continued or can be expected to continue indefinitely; and
- (4) Constitutes a severe handicap to such individual's ability to function normally in society.

(j) "Nursing facility" means an institution or a distinct part of an institution which provides long-term care in one or more of the following categories:

- (1) Skilled nursing care and related services to individuals who require medical or nursing care;
- (2) Rehabilitation services for the rehabilitation of injured, disabled, or sick individuals; or
- (3) On a regular basis, health-related care and services to individuals who, because of their mental or physical condition, require care and services above the level of room and board which can be made available to them only through institutional services.

(k) “PASARR office” means that office delegated the functional responsibility by the department of carrying out preadmission screenings and performing annual reviews for those nursing facility residents who receive specialized services.

(l) “Specialized services for MI” means an inpatient psychiatric level of care which, combined with services of the nursing facility IMD, results in continuous implementation of an individualized plan of care.

(m) “Specialized services for MR” means services that:

- (1) Are beyond those typically made available for individuals living in nursing facilities;
- (2) Are provided by a mental retardation professional trained in working with individuals with MR; and
- (3) Result in services incorporated into the individual’s nursing facility plan of care.

He-M 1302.03 Identifying Who Needs to be Screened.

(a) For NH residents applying to Medicaid certified nursing facilities within New Hampshire or out-of-state, the divisions shall:

- (1) Confirm the presence of MI or MR;
- (2) Determine if the individual meets the nursing facility level of care pursuant to He-M 1302.06(a); and
- (3) If the individual requires nursing facility level of care, specify whether the individual requires specialized services pursuant to He-M 1302.07 or He-M 1302.08.

(b) If the applicant does not meet nursing facility level of care or is determined not to have MI or MR, the individual shall not be subject to PASARR .

(c) An applicant who has MI or MR shall be exempt from preadmission screening if he or she has a signed notice on file with the divisions per section He-M 1302.04 (c) and:

- (1) Is being re-admitted to a nursing facility from a hospital, or
- (2) Is transferring from one nursing facility to another with or without an intervening hospital stay.

(d) An applicant shall be predetermined eligible for nursing facility admission if he or she meets nursing facility level of care and one of the following criteria:

- (1) Has a terminal illness or a medical condition that is expected to continually deteriorate and result in death within approximately 2 years; or
- (2) Has a severe physical condition that has resulted in extreme impairment, such as coma, ventilator dependence, or functioning at the brain stem level.

(e) For the purposes of (d)(3) above, cerebral palsy, in and of itself, shall not constitute a severe physical condition or be a criterion for predetermination of eligibility for nursing facility admission.

(f) An applicant shall be predetermined to be eligible for nursing facility admission and services up to 100 days if he or she has a signed notice on file with the divisions per He-M 1302.04 (c) and meets nursing facility level of care as documented by a physician’s order for convalescence or rehabilitation.

(g) An applicant shall be predetermined to be eligible for facility admission and services up to 30 days if he or she:

- (1) Has a signed notice on file with the divisions per He-M 1302.04 (c);
- (2) Meets nursing facility level of care; and
- (3) Meets one of the following criteria:
  - a. Requires emergency admission for protective services;
  - b. Requires respite for the caregiver of the individual with MI or MR; or
  - c. Requires a temporary admission because further assessment cannot be made until delirium resolves.

(h) Unless the primary diagnosis is MI, an applicant with any type of dementia shall be exempt from further screening.

(i) An applicant with a diagnosis of MR shall be screened regardless of a diagnosis of Alzheimer's disease or a related disorder, or a non-primary diagnosis of dementia.

He-M-1302.04 Reviewing Applicants with MI or MR.

(a) Hospitals, nursing facilities, area agencies, community mental health centers, or any other referral agent shall identify each person who might have MI or MR or a related condition and who is applying for admission to a nursing facility that receives Medicaid funding.

(b) For each applicant identified in (a) above, the referral agent shall submit the following to the divisions:

- (1) The individual's name, address, and home telephone number;
- (2) The name and address of the referring agency and the receiving agency;
- (3) The individual's date of birth, marital status, sex, and religion;
- (4) The name, address, telephone number, and relationship of the individual's nearest relative or, if applicable, his or her legal representative;
- (5) The individual's Medicaid claim number and information regarding the individual's other insurance and resources, as available;
- (6) The date of admission to the referring agency and the date of transfer to the receiving agency;
- (7) The type of agency the individual is being transferred to;
- (8) The individual's diagnosis and prognosis;
- (9) The individual's physical history and current functional, mental, and physical status, including allergies, drug sensitivities, sensory impairments, physical disabilities, and need for assistive devices;
- (10) The date(s) and type(s) of any surgical or orthopedic procedures performed;

- (11) The individual's rehabilitation goals and the estimated length of medically necessary care;
  - (12) The physician's name and address and plan of medical care for the individual;
  - (13) The plan of nursing care;
  - (14) The individual service plan, individual family support plan, or plan of care;
  - (15) Functional assessments; and
  - (16) Any other information that is considered by the referral agent to be necessary to make an accurate determination pursuant to He-M 1302.06 (a).
- (c) For each applicant identified in (a) above, the referral agent shall ask the applicant, or his or her legal guardian or legal representative, to sign a written notice explaining that the applicant is being referred to the PASARR office for further screening pursuant to section He-M 1302.04 (b) (1)-(16).
- (d) An applicant, or the legal guardian or legal representative of an applicant, referred for further screening shall sign the written notice as described in (c) above to indicate that he or she has reviewed the information therein.
- (e) The information forwarded to the divisions for review shall include:
- (1) The signed written notice pursuant to (c) and (d) above;
  - (2) All information listed under (b) above; and
  - (3) If referred from a hospital setting, intake, history and physical (H&P), and consultation reports.
- He-M 1302.05 Responsibility for Evaluations and Determinations.
- (a) The PASARR office shall review all applicants to nursing facilities who are found to have MI or MR to determine their need for nursing facility level of care pursuant to He-M 1302.06(a), and need for specialized services pursuant to He-M 1302.07 or He-M 1302.08.
- (b) Evaluations required to make determinations relative to an applicant's need for nursing facility level of care and need for specialized services shall be completed by:
- (1) An individual or entity other than the division of behavioral health for persons with a mental illness; or
  - (2) The division of developmental services or its delegate for persons with mental retardation.
- (c) If the divisions delegate determination functions to another entity:
- (1) The determinations as to the need for nursing facility services and for specialized services shall be made based on an analysis of information specified in He-M 1302.06, He-M 1302.07, and He-M 1302.08; and
  - (2) The other entity shall not be a nursing facility and does not have a direct or indirect affiliation or relationship with a nursing facility.
- (d) The divisions shall ensure that evaluations performed pursuant to (b) above:

- (1) Are adapted to the cultural background, language, ethnic origin and means of communication used by the applicant being evaluated;
- (2) If performed by more than one evaluator, are coordinated among the various disciplines; and
- (3) Involve the applicant or his or her legal representative and the person's family, as family members are available and their participation is agreed to by the applicant or his or her legal representative.

He-M 1302.06 Determination of Level of Care and Need for Nursing Facility Services.

(a) The divisions shall determine that an applicant needs nursing facility level of care if he or she has a medical need for 24 hour care for one or more of the following:

- (1) Medical monitoring and nursing care;
- (2) Restorative nursing or rehabilitative care;
- (3) Medication administration; or
- (4) Assistance with 2 or more activities of daily living.

(b) For applicants meeting He-M 1302.06(a) for inpatient care, the divisions shall specify length of stay allowances based on an individual's specific needs and circumstances.

(c) For applicants who meet nursing facility level of care, but whose needs can be met in a community setting, the divisions shall:

- (1) Advise the applicant or his or her legal representative that receiving services in a home or other community-based setting is clinically appropriate for the applicant;
- (2) Inform the applicant or his or her legal representative of the right, pursuant to RSA 151-E:4, to choose to receive appropriate services in a less restrictive setting;
- (3) Request permission from the applicant or his or her legal representative to identify the applicant to the regional area agency or behavioral health center so that either agency can do outreach to educate the applicant about community residential alternatives; and
- (4) Request from the applicant or his or her legal representation an explanation as to the reasons why they are rejecting clinically appropriate home or community-based services.

(d) Before the divisions render a final determination granting nursing facility approval when a less restrictive alternative might be appropriate, the divisions shall request that the applicant or his or her legal representative sign a statement indicating that he or she has complied with all requests under He-M 1302.06 ( c) and is making an informed decision.

(e) In those cases where the decision of an individual or individual's legal representative pursuant to (d) above jeopardizes the health, safety, or welfare of the individual, the divisions shall, as applicable:

- (1) Seek the appointment of a guardian pursuant to RSA 464-A:9, III;
- (2) Seek the appointment of a guardian ad litem pursuant to RSA 464-A:41; or
- (3) Seek the termination of a power of attorney pursuant to RSA 506:7 or RSA 137-J:16.

(f) For each applicant determined to require inpatient status in a nursing facility, the divisions shall inform the applicant in writing that nursing facility admission has been approved.

(g) For each applicant determined not to require inpatient status in a nursing facility, the divisions shall inform the applicant in writing that nursing facility admission has been denied and, if appropriate, of options available to the individual.

He-M 1302.07 Specialized Services for People with Mental Illness.

(a) Once the PASARR office finds an applicant with mental illness appropriate for nursing facility placement, it shall determine whether specialized services are needed based on individualized evaluation.

(b) The individualized evaluation required by (a) above shall include:

(1) A comprehensive history and physical examination of the individual that shall:

a. Include:

1. Complete medical history;
2. Review of all body systems, including neurological; and
3. In cases of abnormal findings, additional evaluations conducted by specialists; and

b. Either:

1. Be performed by a physician; or
2. Be reviewed by a physician concurring with the evaluation's conclusions;

(2) A comprehensive drug history, including current and past use of medications that could mimic or mask symptoms of mental illness;

(3) A psychosocial evaluation, including evaluation of current living arrangements and social, financial, and medical support systems;

(4) A comprehensive psychiatric evaluation that includes:

- a. Complete psychiatric history;
- b. Evaluation of orientation and of intellectual and memory functioning;
- c. Current attitudes and overt behaviors;
- d. Affect and suicidal or homicidal ideation; and
- e. Degree of reality testing and hallucinations; and

(5) Functional assessment of the individual's ability to engage in activities of daily living and the level of support which would be needed to assist the individual to perform these activities while living in the community, which shall address the following areas:

- a. Self-monitoring of health status;



- b. Self-administering or scheduling of medical treatments, including medication compliance;
- c. Self-monitoring of nutritional status;
- d. Handling money; and
- e. Grooming and dressing appropriately.

(c) Applicants who are found after review to be experiencing a mental illness and to require specialized services shall have a treatment plan that:

- (1) Is developed and supervised by an interdisciplinary team which includes a physician, qualified mental health professional and, as appropriate, other professionals;
- (2) Prescribes specific therapies and activities for the treatment of persons experiencing an acute episode of mental illness which necessitates supervision by trained mental health professionals; and
- (3) Is directed toward diagnosing and reducing the client's behavioral symptoms of mental illness and improving his or her level of independent functioning, which ideally would lead to services which are of a lesser intensity than specialized services.

He-M 1302.08 Specialized Services for People with Mental Retardation.

(a) Once the PASARR office finds an applicant appropriate for nursing facility placement, it shall determine whether the individual would benefit from specialized services based on information provided in He-M 1302.04 (b) (8) – (16).

(b) Applicants who have mental retardation and are found to require specialized services as defined in He-M 1302.02 (m) shall have these services identified in a nursing facility plan of care that is:

- (1) Developed by an interdisciplinary team, including nursing facility staff, representing areas that are relevant to identifying the person's needs and to designing services that meet his or her needs;
- (2) Directed toward helping the individual continue to experience community based opportunities and maintain social ties with family and friends; and
- (3) Designed to assist the individual acquire behaviors necessary to function with as much self determination and independence as possible, and
- (4) Intended to prevent or decelerate the regression or loss of current functional status

(c) All applicants to nursing facilities who are determined to have mental retardation, to require nursing facility level of care, and to have a confirmed diagnosis of dementia shall be determined not to require specialized services.

He-M 1302.09 Notification and Documentation of Determinations.

(a) A written report of the findings of the preadmission screening or annual review shall be prepared by the divisions and conveyed to the following:

- (1) The individual and, if applicable, his or her legal representative;
- (2) The discharging hospital, if applicable;

- (3) The admitting or retaining nursing facility; and,
  - (4) The attending physician, if applicable.
- (b) The written report shall include the following:
- (1) A listing of the evaluations reviewed, including the evaluators' names and professional titles and dates prepared;
  - (2) The name and title of the reviewer and date of review;
  - (3) An interpretation of the results of the evaluations in terms of the applicant's functional status;
  - (4) A brief summary of the individual's medical and social history;
  - (5) Whether nursing facility level of care is needed;
  - (6) If specialized services are recommended, what specifically is authorized;
  - (7) The basis for the report's conclusions; and
  - (8) The right of the individual or legal representative to appeal a nursing facility admission decision.
- (c) The divisions shall respond to all preadmission referrals within 9 days. Delays that are necessary to ensure accurate diagnoses and treatment recommendations shall be allowed.
- (d) The divisions shall maintain records of evaluations and determinations for all applicants who are confirmed to have MI or MR.
- (e) The divisions shall maintain a tracking system for all individuals with MI or MR who are receiving specialized services and are subject to an annual resident review pursuant to He-M 1302.10.

He-M 1302.10 Annual Resident Reviews.

- (a) Annual reviews pursuant to He-M 1302.04, He-M 1302.06, He-M 1302.07, and He-M 1302.08 shall be conducted annually for all individuals who receive specialized services.
- (b) Upon completion of an annual resident review, the divisions shall convey the findings to the individual and his or her legal representative pursuant to He-M 1302.09.
- (c) The report shall include determinations regarding placement for individuals with mental illness or mental retardation based on the following criteria:
- (1) Any individual who requires the level of care provided by a nursing facility and is currently receiving nursing facility care shall continue to receive such care if he or she chooses;
  - (2) Any individual who does not require the level of service provided by a nursing facility but has resided in a nursing facility at least 30 consecutive months prior to the review date may choose to move to community living or continue to reside in the facility if offered specialized services; and
  - (3) Any individual who does not require the level of service provided by a nursing facility and does need specialized services shall be discharged from the nursing facility.

(d) The report shall also specify service determinations and related actions documenting the need for the continuation of specialized services.

(e) For the purpose of establishing length of stay in nursing facilities, the 30 months of continuous residence referenced in (c) (2) above shall be calculated back from the date of the first annual resident review determination which finds that the individual is not in need of nursing facility services. The period shall include temporary absences and consecutive residences in more than one nursing facility.

He-M 1302.11 Appeals.

(a) Any individual, or his or her legal representative, may file in writing an appeal of nursing facility admission or continued nursing facility stay to the office of client and legal services. Such an appeal shall be filed in accordance with He-C 200 within 35 days of the issuance of the determination.

(b) Funding for services provided to Medicaid recipients for continuing stays shall be available during the period that an appeal is in progress until a decision is rendered.

**CROSS REFERENCE TABLE**

<u>Rule Number</u>	<u>Section Title</u>	<u>RSA/Federal Citation</u>
He-M 1302.01	Purpose	RSA 171-A:6; 135-C:1
He-M 1302.02	Definitions	“
He-M 1302.03	Identifying Who Needs to be Screened	“ 42 CFR 483.106
He-M 1302.04	Reviewing Applicants with MI or MR	“ 42 CFR 483.112
He-M 1302.05	Responsibility for Evaluations and Determinations	RSA 171-A:6; 135-C:1
He-M 1302.06	Determination f Level of Care and Need for Nursing Facility Services	“ 42 CFR 483.132
He-M 1302.07	Specialized Services for People with Mental Illness	RSA 171-A:6; 135-C:1 42 CFR 483.134
He-M 1302.08	Specialized Services for People with Mental Retardation	RSA 171-A:6; 135-C:1 42 CFR 483.136
He-M 1302.09	Notification and Documentation of Determinations	RSA 171-A:6; 135-C:1
He-M 1302.10	Annual Resident Reviews	RSA 171-A:6; 135-C:1 42 CFR 483.114
He-M 1302.11	Appeals	RSA 171-A:29; 135-C:1